

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

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**NOTICE OF EXPEDITED MOTION AND MOTION FOR APPROVAL OF  
SETTLEMENT AGREEMENT AND FOR EXPEDITED HEARING**

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TO: ENTITIES SPECIFIED IN LOCAL RULE 9013-3

1. Randall L. Seaver, the Chapter 7 Trustee ("**Trustee**") herein, moves the Court for the relief request below and gives Notice of hearing herewith.

2. The Court will hold a hearing on this motion at 2:00 p.m. on August 18, 2010, Courtroom No. 8 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415 or as soon thereafter as counsel can be heard. Under applicable rules, any objection must be in writing, be delivered to the Trustee and the United States Trustee. Because of the expedited nature of this hearing, the Trustee will not object, as to timeliness, to any response. **UNLESS A RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion under 28 U.S.C. §§157 and 1334, Fed.R.Bankr.P. 5005, and Local Rule 1070-1. The petition commencing this chapter 7 case was filed on June 4, 2009. The case is now pending in this court.

4. This Motion arises under Fed.R.Bankr.P. 9019, Local Rule 9019-1 and is filed under Local Rules 9013-2 and 9013-5. The Trustee seeks approval of a settlement agreement with the parties in interest in the matter of *Seaver vs. New Buffalo Auto Sales, LLC, et al.* (Adv. No. 10-5027) which does not dispose of the litigation, but allows for the asset in dispute to be liquidated.

5. A copy of the parties' Settlement Agreement is attached hereto as Exhibit A. The final agreement will substantially conform to the version attached hereto.

6. Expedited relief is required so that the parties in interest may gain control of the property and commence marketing the same.

7. Pursuant to Local Rule 9013-2(c), the Trustee gives notice that he may, if necessary, testify at the hearing regarding the proposed sale.

**WHEREFORE**, the Trustee moves the court for an order as follows:

1. Granting the Trustee's motion for expedited hearing.
2. Granting the Trustee's motion for approval of the Settlement Agreement.

**LEONARD, O'BRIEN, SPENCER,  
GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: August 13, 2010

By: \_\_\_\_\_  
Matthew R. Burton  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
(612) 332-1030

Attorneys for Randall L. Seaver, Trustee

**VERIFICATION**

I, Randall L. Seaver, Trustee for the Bankruptcy Estate of Dennis E. Hecker named in the foregoing Notice of Hearing and Motion for Approval of Settlement Agreement and Expedited Hearing declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on August 13, 2010

/e/ Randall L. Seaver

\_\_\_\_\_  
Randall L. Seaver, Trustee

426301

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“**Agreement**”) is entered into between Randall L. Seaver, Trustee (“**Trustee**”), New Buffalo Auto Sale, LLC (“**NBLLC**”), Maurice Wagener (“**Wagener**”), and Palladium Holdings LLC (“**Palladium**”) and their respective successors and assigns (collectively referred to as the “**Parties**”).

WHEREAS, the Trustee has commenced an adversary proceeding (10-5027) (the “**Adversary Proceeding**”) against NBLLC, Wagener and Palladium relating to 1615 Northridge Dr. Medina, MN 55391 (the “**Property**”).

WHEREAS, each of the Parties claim an interest in the Property.

WHEREAS, the Parties are entering into this Agreement solely for the purpose of marketing the same. No part of this Agreement shall have any effect on the Parties’ respective positions in the Adversary Proceeding.

NOW, THEREFORE, in consideration of the foregoing recitals, the covenants undertaken herein and for other good and valuable consideration, the parties make the following:

### AGREEMENT

1. The Parties agree that Palladium may commence an unlawful detainer proceeding with respect to the Property. Palladium may also begin the process of marketing the Property for sale.
2. Palladium shall carry and maintain insurance for the Property naming the Trustee and NBLLC as additional insureds/loss payees as applicable.
3. Nothing in this Agreement shall prejudice or otherwise limit any Party in any way with respect to the Adversary Proceeding, and nothing in this Agreement, the possible unlawful detainer proceeding or the marketing of the Property for sale shall be construed as an admission by any Party.

4. No Party shall execute a purchase agreement as to the Property without (a) the prior written consent of all of the Parties as to the buyer, price and disposition of the proceeds or (b) pursuant to an order of the Court.

5. The undersigned, by execution hereof, state that they have reviewed this Agreement with their respective legal counsel, if any, and that they understand and fully agree to each, all, and every provision hereof, and hereby acknowledge receiving a copy hereof.

6. This Agreement shall be construed under the laws of the State of Minnesota and is subject to approval of the United States Bankruptcy Court.

7. This Agreement shall not be amended or otherwise altered except by a writing that is signed by the Parties' authorized representatives and their respective legal counsel.

8. This Agreement is valid if executed in counterparts which if read together constitute a fully executed Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the latest date on which this Agreement has been executed by all of the Parties as set forth below.

Dated: \_\_\_\_\_, 2010

By \_\_\_\_\_  
Randall L. Seaver, Trustee

New Buffalo Auto Sales, LLC

Dated: \_\_\_\_\_, 2010

By \_\_\_\_\_  
Maurice J. Wagener, Chief Manager

Palladium Holdings LLC

Dated: \_\_\_\_\_, 2010

By \_\_\_\_\_  
Joseph Yurecko, Chief Manager

Dated: \_\_\_\_\_, 2010

By \_\_\_\_\_  
Maurice J. Wagner

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

Debtor.

**UNSWORN CERTIFICATE OF SERVICE**

I hereby certify that on August 13, 2010, I caused the following documents:

***Notice of Expedited Motion and Motion for Approval of Settlement Agreement and  
for Expedited Hearing and Order (proposed)***

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

**SEE ATTACHED SERVICE LIST**

Dated: August 13, 2010

/e/ Stephanie Wood

\_\_\_\_\_  
Stephanie Wood  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
(612) 332-1030

UNITED STATES RENT A CAR  
4744 PARADISE ROAD  
LAS VEGAS,, NV 89121

ACE INSURANCE COMPANY  
P.O. BOX 294836  
CLEVELAND OH 44101

ALDRIDGE, DAN  
1600 KENWOOD PKWY.  
MINNEAPOLIS MN 55405

ALLEN EIDE  
3221 32ND AVENUE SOUTH  
SUITE 900  
GRAND FORKS ND 58201

AMERICAN BANK  
1060 DAKOTA DRIVE  
MENDOTA HEIGHTS MN 55120

AMERICAN EXPRESS  
P. O. BOX 0001  
LOS ANGELES CA 90096

AMERICAN NAT'L BANK OF MN  
7638 WOIDA RD  
BAXTER MN 56425

ANCHOR BANK  
1570 CONCORDIA AVE  
SAINT PAUL MN 55104

ANCHOR BANK  
P.O. BOX 7933  
MADISON WI 53707

AV CARD/OASIS  
164 LAKE FRONT DR  
COCKEYSVILLE MD 21030

AXIS CAPITAL, INC.  
308 N LOCUST ST  
PO BOX 2555  
GRAND ISLAND NE 68802

AXLE CAPITAL, LLC / SAGECREST  
3 PICKWICK PLAZA  
GREENWICH CT 06830

AMERICAN BANK  
1578 UNIVERSITY AVENUE W  
SAINT PAUL, MN 55104

AMERICAN EXPRESS BANK FSB  
C/O BECKET AND LEE LLP  
PO BOX 3001  
MALVERN PA 19355-0701

BARBARA LYNN CUTTER  
2350 S BEVERLY GLEN BLVD #5  
W LOS ANGELES CA 90064

BAYPORT MARINA ASSOCIATION  
200 5TH STREET  
BAYPORT MN 55003

BELISLE, WAYNE  
1843 EAGLE RIDGE DR  
SAINT PAUL MN 55118

BELLAGIO  
3600 LAS VEGAS BLVD  
LAS VEGAS NV 89109

BREICH, WALTER  
13670 -- 122ND STREET  
NORWOOD YOUNG AMERICA MN  
55368

BREMER BANK  
633 SOUTH CONCORD STREET,  
SUITE 350  
SOUTH ST. PAUL MN 55075

BRIGGS & MORGAN PA  
2200 IDS CENTER  
80 SOUTH EIGHTH STREET  
MINNEAPOLIS MN 55402

C AND C BOAT WORKS  
36448 CTY RD 66  
CROSSLAKE MN 56442

CA BOARD OF EQUALIZATION  
PO BOX 942879  
SACRAMENTO CA 94279-7072

CA DEPT OF MOTOR VEHICLES  
PO BOX 942869  
SACRAMENTO CA 94269-0001

CARLTON FINANCIAL  
CORPORATION  
1907 E. WAYZATA BLVD. SUITE 180  
WAYZATA MN 55391

CENTER POINT ENERGY  
P.O. BOX 1144  
MINNEAPOLIS MN 55440

CESSNA AIRCRAFT COMPANY  
P.O. BOX 12270  
WICHITA KS 67277

CHRYSLER FINANCIAL  
CIMS 740-01-19  
6400 S FIDDLERS GREEN CIR.,  
STE. 700  
ENGLEWOOD CO 80111-4979

CITY OF ASPEN  
130 S. GALENA ST.  
ASPEN CO 81611

CITY OF BAYPORT  
294 N. 3RD STREET  
BAYPORT MN 55003

CITY OF MEDINA  
2052 CO RD 24  
HAMEL MN 55340

COMMUNITY NATIONAL BANK  
845 EAST COUNTY ROAD E  
VADNAIS HEIGHTS MN 55127

D&H DOCKS  
23624 SMILEY ROAD  
NISSWA, MN 56468

COOPERATIVE POWER  
P.O. BOX 69  
TWO HARBORS MN 55616

CORNERSTONE BANK  
2280 45<sup>TH</sup> STREET SOUTH  
FARGO, ND 58104

CROSSLAKE PROPERTY  
SOLUTIONS  
P.O. BOX 810  
CROSSLAKE MN 56442

CROW WING COUNTY  
TREASURER  
JUDICIAL CENTER  
213 LAUREL ST  
BRainerd MN 56401

DEERWOOD BANK  
611 WASHINGTON STREET NE  
BRainerd MN 56401-3377

DON GILBERT  
1700 PHEASANT RUN  
HUDSON WI 54016

DONALD M HALSTEAD III  
15626 SUNSET WAY  
BRainerd MN 56401

ELIZABETH A JOHNSON  
PO BOX 624  
PINE RIVER MN 56474

ENCORE BANK  
3003 TAMiami TRAIL NORTH, #100  
NAPLES FL 34103

EXXONMOBILE OIL  
CORPORATION  
ATTN JENNIFER FRASER  
120 MCDONALD STREET SUITE B  
SAINT JOHN NB CANADA E2J 1M5

FAMILY HOLDINGS OF MN LLC  
11614 ECHO BAY DRIVE  
CROSSLAKE MN 56442

FIFTH THIRD BANK  
C/O RICHARD J. SWIFT, JR.  
GARLICK STETLER & SKRIVIAN  
9115 CORSEA DE FONTANA WAY,  
#100  
NAPLES FL 34109

GE CAPITAL  
1415 WEST 22ND STREET, SUITE  
600  
OAKBROOK IL 60523

GE CAPITAL, FLEET SERVICES  
3 CAPITAL DRIVE  
EDEN PRAIRIE MN 55344

GELCO CORPORATION  
THREE CAPITAL DRIVE  
ATTN: GENERAL COUNSEL  
EDEN PRAIRIE MN 55344

GEMB LENDING INC  
2995 RED HILL AVE STE 250  
COSTA MESA CA 92626

GEMB LENDING, INC.  
P.O. BOX 57091  
IRVINE CA 92619

GMAC MORTGAGE  
1100 VIRGINIA DRIVE  
FORT WASHINGTON, PA 19034

GMAC MORTGAGE  
P.O. BOX 4622  
WATERLOO IA 50704

GMAC, LLC  
15303 94TH AVENUE  
ORLAND PARK IL 60462

GWYN M DOENZ  
10600 COUNTRY DRIVE  
PINE CITY MN 55063

HECKER, SANDRA  
13755 - 84TH PL N  
MAPLE GROVE MN 55369

HENNEPIN COUNTY TREASURER  
300 S SIXTH ST  
A600 GOVERNMENT CNT  
MINNEAPOLIS MN 55487

HOLY CROSS ENERGY  
3799 HWY 82  
GLENWOOD SPRINGS CO 81602

HOME FEDERAL SAVINGS BANK  
1016 CIVIC CENTER DR NW  
STE 300  
ROCHESTER MN 55903

HSBC BANK NEVADA NA  
BASS & ASSOCIATES, PC  
3936 E FT LOWELL RD, STE 200  
TUCSON AZ 85712

HYUNDAI MOTOR AMERICA  
10550 TALBERT AVE  
MOUNTAIN VALLEY CA 92708



INTER BANK  
P.O. BOX 986  
NEWARK NJ 07184

IRS  
DEPARTMENT OF TREASURY  
OGDEN UT 84201

JASON S. COLBAUGH  
PO BOX 1220  
BRainerd MN 56401

JC BROMAC  
11860 S. LA CIENEGA BLVD.  
LOS ANGELES CA 90250

KAPLAN STRANGIS & KAPLAN PA  
5500 WELLS FARGO CENTER  
90 SOUTH 7TH STREET  
MINNEAPOLIS MN 55402

KSTP-FM LLC  
3415 UNIVERSITY AVE  
SAINT PAUL MN 55114

LUBIC, MICHAEL, ESQ.  
601 S FIGUEROA ST  
STE 2500  
LOS ANGELES CA 90017-5704

MARC D. KOHL  
39101 DARLING LANE  
HINCKLEY MN 55037

MARSHALL BANK FIRST  
225 SOUTH SIXTH STREET, SUITE  
2900  
MINNEAPOLIS MN 55402

MIKDEN PROPERTIES  
7002 6TH STREET NORTH  
OAKDALE MN 55128

INTERBANK EDINA  
3400 WEST 66TH STREET, SUITE  
100  
EDINA MN 55435

JACOB HOLDINGS OF MEDINA,  
LLC  
500 FORD RD  
MINNEAPOLIS MN 55426

JAVAN CARL  
13942 GRAND OAKS DR  
BAXTER MN 56425

JOHN J. SORCI TRUST  
2300 EAST VALLEY COURT  
SAN JOSE CA 95148

KELLY K. HECKER  
13905 - 53RD AVE N. APT. 1  
PLYMOUTH MN 55446

LAKE BANK, N.A., THE  
613 FIRST AVENUE  
TWO HARBORS MN 55616

M&I BANK  
770 N. WATER STREET  
MILWAUKEE WI 53202

MARC E TRESSLER  
3400 BARBARA LN  
BURNSVILLE MN 55337

MCENROE, CATHERINE  
LEONARD STREET & DEINARD  
150 S FIFTH ST STE 2300  
MINNEAPOLIS MN 55402

MINNESOTA DEPT. OF REVENUE  
MAIL STATION 7701  
SAINT PAUL MN 55146-7701

INTERNAL REVENUE SERVICE  
SPECIAL PROCEDURES BRANCH  
389 US COURTHOUSE 316 N  
ROBERT  
ST. PAUL MN 55101

JACOB PROPERTIES OF ASPEN,  
LLC  
500 FORD RD  
MINNEAPOLIS MN 55426

JAVIER ESQUIVEL  
2807 W AVE 30  
LOS ANGELES CA 90065

JP MORGAN CHASE BANK, N.A.  
726 MADISON AVENUE  
NEW YORK NY 10021

KLEINBANK  
14141 GLENDALE ROAD  
SAVAGE MN 55378

LLOYD SECURITY  
1097 10TH SE  
MINNEAPOLIS MN 55414

MAC OF PINE CITY, LLC  
3221 32ND AVENUE SOUTH  
SUITE 900  
GRAND FORKS ND 58201

MARSH CONSUMER  
333 SOUTH SEVENTH, STE 1600  
MINNEAPOLIS MN 55402-2427

MICHAEL REYES  
PO BOX 205  
BACKUS MN 56435

MINNESOTA DEPT. OF REVENUE  
PO BOX 64649  
SAINT PAUL MN 55164-0649

MN DEPT OF PUBLIC SAFETY  
DRIVER & VEHICLE SERVICES  
445 MINNESOTA ST  
SAINT PAUL MN 55101-5160

NATHAN THIEMAN  
1030 8TH AVE SW  
PINE CITY MN 55063

NEIMAN MARCUS  
P.O. BOX 5235  
CAROL STREAM IL 60197

NEVADA STATE BANK  
6505 NORTH BUFFALO DRIVE  
LAS VEGAS NV 89131

NIEDERNHOEFER, MANFRED  
1563 RIVERCREST RD  
LAKELAND MN 55043

NITROGREEN  
P.O. BOX 41  
MAPLE PLAINE MN 55359

NORTHMARQ CAPITAL  
3500 AMERICAN BLVD WEST,  
SUITE 500  
BLOOMINGTON MN 55431

NORTHRIDGE FARM  
ASSOCIATION  
P.O. BOX 767  
WAYZATA MN 55391

NORTHWOODS BANK  
PO BOX 112  
PARK RAPIDS MN 56470

OLD REPUBLIC SURETY  
1503 - 42ND ST  
STE 100  
DES MOINES IA 50305

PRALLE, GARY  
3625 PINE HOLLOW PL  
STILLWATER MN 55082

PREMIER AQUARIUM  
6340 IRVING AVE S.  
RICHFIELD MN 55423

PREMIER BANKS  
1875 W. HIGHWAY 36  
ROSEVILLE MN 55113

PRESS A DENT INC  
1154 S HIGH ST  
DENVER CO 80210

PRINDLE, DECKER & AMARO, LLP  
310 GOLDR SHORE - 4TH FLOOR  
LONG BEACH CA 90802

PROFESSIONAL SERVICE  
BUREAU  
11110 INDUSTRIAL CIRCLE NW  
STE B  
ELK RIVER MN 55330-0331

MICHAEL W. MALTER  
BINDER & MALTER LLP  
2775 PARK AVENUE  
SANTA CLARA, CA 95050

R. OLSON / WATERFORD  
PROPERTIES  
73 N. BROADWAY  
FARGO ND 58102

RANDY'S SANITATION  
P.O. BOX 169  
DELANO MN 55328

RIVERLAND BANCORPORATION  
700 SEVILLE DRIVE  
JORDAN MN 55352

RIVERWOOD BANK  
LOAN PRODUCTION OFFICE  
PO BOX 899  
CROSSLAKE MN 56442

ROE, JESSICA LIPSKY, ESQ.  
BERNICK LIFSON ET AL  
500 WAYZATA BLVD STE 1200  
MINNEAPOLIS MN 55416

ROYAL JEWELERS  
73 BROADWAY  
FARGO, ND 58102

RUTH ANN BIEDERMAN  
414 7TH AVE NE  
PINE CITY MN 55063

SCHUYLER SCARBOROUGH  
19181 SPENCER ROAD UNIT #15  
BRAINERD MN 56401

SCOTT A. KEYPORT  
1802 AIRWAVES RD NE  
PINE CITY MN 55063

SILVER CLIFF ASSOCIATION  
1201 CEDAR LAKE RD S.  
MINNEAPOLIS MN 55416

SOURCE GAS  
P.O. BOX 660474  
DALLAS TX 75266

ST. CROIX YACHT CLUB  
P.O. BOX 2263  
STILLWATER MN 55082

STATE OF MINNESOTA DEPT OF  
REVENUE  
600 NORTH ROBERT STREET  
ST. PAUL MN 55101

STORCHECK CLEANERS  
857 7TH STREET  
ST. PAUL MN 55106

SUMMERS PROPERTY  
MANAGEMENT  
111K AABC  
ASPEN CO 81611

TCF NATIONAL BANK  
801 MARQUETTE AVENUE  
MINNEAPOLIS MN 55402

TCHIDA, BRYANT D., ESQ.  
LEONARD STREET & DEINARD  
150 S 5TH ST STE 2300  
MINNEAPOLIS MN 55402

THE MIRAGE CASINO-HOTEL  
C/O MARK W. RUSSELL ESQ  
3400 LAS VEGAS BLVD S  
LAS VEGAS NV 89109

TOYOTA FINANCIAL SAVINGS  
BANK  
2485 VILLAGE VIEW DRIVE  
SUITE 200  
HENDERSON NV 89074

TOYOTA FINANCIAL SERVICES  
301 CARLSON PKWY, STE. 210  
MINNETONKA MN 55305

TOYOTA MOTOR CREDIT CORP  
301 CARLSON PKWY STE 210  
MINNETONKA MN 55305

U.S. BANK  
BC-MN-H22A  
800 NICOLLET MALL, 22ND  
FLOOR  
MINNEAPOLIS MN 55402

US BANK VISA CARD  
P.O. BOX 790408  
ST. LOUIS MO 63179

VENTURE BANK  
5601 GREEN VALLEY DRIVE  
SUITE 120  
BLOOMINGTON MN 55437

VFS FINANCING, INC.  
10 RIVERVIEW DR  
ATTN BETH BONELL  
DANBURY CT 06810

VICTORIA INSURANCE  
1100 LOCUST STREET  
DES MOINES IA 50391

VISION BANK  
3000 25TH ST. SOUTH  
P.O. BOX 10008  
FARGO ND 58106

WAGENER, MAURICE J.  
13700 WAYZATA BLVD  
HOPKINS MN 55305

WASHINGTON COUNTY  
TREASURER  
GOVERNMENT CENTER  
14949 - 62ND ST N  
STILLWATER MN 55082

WASHINGTON MUTUAL BANK,  
FA  
400 E MAIN ST  
STOCKTON CA 95290

WASTE PARTNERS  
P.O. BOX 677  
PINE RIVER MN 56474-0677

WATERFORD ASSOCIATION  
P.O. BOX 1353  
MINNEAPOLIS MN 55480-1353

WAYNE BELISLE  
1843 EAGLE RIDGE  
MENDOTA HEIGHTS MN 55118

WELLS FARGO  
C/O DAVID GALLE  
45 SOUTH SEVENTH ST, STE 3300  
MINNEAPOLIS MN 55402

WELLS FARGO BANK N.A.  
LOAN ADJUSTMENT GROUP  
90 SOUTH 7TH STREET  
MINNEAPOLIS MN 55402

WELLS FEDERAL BANK  
53 FIRST ST. SW  
WELLS MN 56097

WI DEPT OF TRANSPORTATION  
PO BOX 7949  
MADISON WI 53707

WILLIAM BRODY  
BUCHALTERNEMER  
1000 WILSHIRE BLVD, STE 1500  
LOS ANGELES CA 90017-2457

WORLD OMNI FINANCIAL CORP.  
190 JIM MORAN BOULEVARD  
DEERFIELD BEACH FL 33442

ZAPPIA, THOMAS M., ESQ.  
ZAPPIA & LEVAHN  
941 HILLWIND RD NE STE 301  
MINNEAPOLIS MN 55432

CRAIG E REIMER  
MAYER BROWN LLP  
71 SOUTH WACKER DRIVE  
CHICAGO, IL 60606

DENNIS E. HECKER  
1615 NORTHRIDGE DRIVE  
MEDINA, MN 55391

HOWARD J ROIN  
MAYER BROWN LLP  
71 SOUTH WACKER DRIVE  
CHICAGO, IL 60606

MARIA ROMANO  
4744 PARADISE ROAD  
LAS VEGAS, NV 89121

SAJIDA MAHDI ALI  
MAYER BROWN LLP  
71 SOUTH WACKER DRIVE  
CHICAGO, IL 60606

STUART ROZEN  
MAYER BROWN LLP  
71 SOUTH WACKER DRIVE  
CHICAGO, IL 60606

MICHAEL B. LUBIC  
SONNENSCHN NATH &  
ROSENTHAL LLP  
10100 SANTA MONICA BLVD, 7<sup>TH</sup> FL.  
LOS ANGELES, CA 90067

NEW BUFFALO AUTO SALES, LLC  
F/K/A NEW BUFFALO CHRYSLER  
ATTN: OFFICER/MANAGING AGENT  
12520 WAYZATA BOULEVARD  
MINNEAPOLIS, MN 55305

MAURICE J. WAGENER  
12520 WAYZATA BOULEVARD  
MINNEAPOLIS, MN 55305

PALLADIUM HOLDINGS LLC  
ATTN: OFFICER/MANAGING  
AGENT  
301 CLIFFTON AVENUE  
MINNEAPOLIS, MN 55403

ANNE T. BEHRENDT  
ZAPPIA & LEVAHN, LTD.  
941 HILLWIND ROAD NE  
SUITE 301  
FRIDLEY, MN 55432

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

---

**ORDER**

---

This case is before the court on the expedited motion of Randall L. Seaver, trustee seeking an order authorizing approval of a Settlement Agreement.

Based on the motion and the file,

IT IS ORDERED:

1. The trustee's motion for expedited relief is granted.
2. The trustee's motion for approval of the Settlement Agreement is granted.

Dated: \_\_\_\_\_

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United States Bankruptcy Court Judge